

**IN THE FEDERAL DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
CIVIL DIVISION**

**MARY JONES and;
JOSEPH ALFORD**

Plaintiffs,

HOUSTON COUNTY, ALABAMA;et.al.,

Defendants.

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) **Case No.: 1:06-cv-585**
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**PLAINTIFFS RESPONSE TO DEFENDANT FLATHMANN’S
MOTION TO QUASH AND MOTION TO DISMISS**

COME NOW, Plaintiffs, by and through the undersigned counsel of record and make this their Response to Defendant Flathmann's Motion to Quash and Motion to Dismiss (Doc#11) and state as follows;

1. On information and belief of the underlying pleading filed on behalf of Defendant Flathmann, Plaintiffs acknowledge that someone other than Defendant Flathmann signed accepting service on his behalf who was not authorized to accept service of this Defendant. Further, Plaintiffs initiated service upon Defendant Flathmann at the last known address of employment available to Plaintiffs.
2. On recently ascertained information and belief, Plaintiffs are now aware that Defendant Flathmann may be residing in the State of South Carolina and are attempting further investigation to locate a perfected address for Defendant Flathmann for purposes of service of process in the above styled cause of action.
3. It is now readily apparent, on information and belief of Defendant Flathmann's pleading, that Defendant Flathmann is no longer in the employ of Defendant Houston County Sheriff's Department which was unknown to Plaintiffs at the

time of initiating service of process.

4. Plaintiffs dispute the matter of jurisdiction as argued by Defendant inasmuch as Defendant Flathmann was in the employ of the Defendant Houston County Sheriff's Department and a resident of Houston County, Alabama at all times material to the facts and events made the basis of Plaintiffs' Complaint, moreover, such fact is not disputed by Defendant Flathmann in his pleading to this Honorable Court to quash service of process.
5. Plaintiffs are entitled to a 120 day time period within which to perfect service of process of their named defendants pursuant to Rule 4(m), Fed. R.Civ.P..
6. Plaintiffs are confident that service of process can be perfected of Defendant Flathmann within the 120 day time limit, however, same will require Plaintiffs to seek perfected service by those means available to Plaintiffs pursuant to Rule 4(e)(1),(2), Fed.R.Civ.P..
7. Plaintiffs have not at this time ascertained a correct address of Defendant Flathmann for perfection of service of process, however, same is being diligently sought by Plaintiffs' counsel.
8. Counsel filing on behalf of Defendant Flathmann obviously has information to which such pleading indicates that Defendant Flathmann is no longer employed by Defendant Houston County Sheriff's Department and is working for the "Movie Gallery" in another state. Remarkably such specific information is available to the Sheriff yet no forwarded address has been offered.
9. Plaintiffs would reasonably believe that any Sheriff would be aware of the forwarding address of a former officer especially in the likely event that pending

criminal matters would possibly require future testimony of a former officer.

WHEREFORE PREMISES CONSIDERED, Plaintiffs, by and through the undersigned counsel respectfully pray this Honorable Court to dismiss the instant Motion to Quash and Motion to Dismiss, further, to allow Plaintiffs the 120 day time limit within which to perfect service of process, and lastly or in the alternative, Order Defendant Houston County Sheriff, Lamar Glover, to immediately produce a forwarding address of Defendant Thomas Flathmann, if in his possession, so as not to further inhibit perfected service in this matter.

RESPECTFULLY SUBMITTED this the 16th day of August, 2006.

s/ Michael Guy Holton
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CERTIFICATE OF SERVICE

I do hereby certify that I have served a copy of the foregoing this the 16th day of August, 2006 by electronically filing same with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the below listed counsel:

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